

SIXTH DAY

(Wednesday, September 17, 1941)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tempore Beck.

The roll was called, and the following Senators were present:

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Absent—Excused

Spears

(Senator Weinert in the Chair.)

A quorum was announced present.

Rev. S. B. Culpepper, Chaplain, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Leave of Absence Granted

Senator Spears was granted leave of absence for today on account of important business, on motion of Senator Graves.

House Bill 6 on Second Reading

Senator Shivers moved that Senate rule 38 be suspended, to permit consideration by the Senate at this time of H. B. No. 6.

The motion prevailed by the following vote:

Yeas—28

Aikin	Isbell
Beck	Kelley
Brownlee	Lanning
Chadick	Lemens
Cotten	Lovelady
Fain	Martin
Formby	Mauritz
Graves	Metcalfe
Hazlewood	Moffett

Moore	Sulak
Ramsey	Vick
Shivers	Weinert
Smith	Winfield
Stone	York

Nays—1

Hill

Present—Not Voting

Van Zandt

Absent—Excused

Spears

The Presiding Officer laid before the Senate on its second reading and passage to third reading:

H. B. No. 6, A bill to be entitled "An Act making an appropriation for the biennium beginning September 1, 1941, and ending August 31, 1943, of moneys coming into the County and Road District Highway Fund, and all moneys on hand remaining therein from the previous year to carry out the provisions of Chapter 13, General Laws, Forty-second Legislature, Third Called Session, as amended; and declaring an emergency."

The bill was read second time.

Senator Shivers offered the following (committee) amendment to the bill:

(1)

Amend H. B. No. 6 by striking out that paragraph commencing with the word "Regardless" on page 10 and ending with the word "fund" on page 11.

The (committee) amendment was adopted.

Senator Shivers offered the following amendment to the bill:

(2)

Amend H. B. No. 6, page 9 of the mimeographed copy by striking out the last paragraph beginning in the middle of page 9 and ending on page 10, and substituting in lieu thereof the following:

"In addition to and regardless of the other provisions of this Act, all bonds, warrants or other legal evidences of indebtedness voted, or issued without being voted by a county or defined road district prior to January 2, 1939, insofar as amounts of same were or may be issued and the proceeds actually expended in the construction of roads which are now a part of the designated system of

State highways or which have since, or which may hereafter become a part of the designated system of State highways shall be eligible to participate in the distribution of the monies coming into said County and Road District Highway Fund the same as provided for other bonds under this Act and as of the date of the designation of said road as a part of the State Highway System; and where such bonds or warrants were voted prior to January 2, 1939, and prior to the designation of the road as a State highway and which have not yet been issued or expended, the county or defined road district may issue such bonds or warrants and place the proceeds in escrow with the State Highway Commission for the construction of such road under plans, contracts, specifications and supervision of the State Highway Department and when so expended the bonds shall be eligible to participate in the County and Road District Highway Fund the same as if the bonds had been issued and expended prior to January 2, 1939. Provided, further, that all such bonds or warrants to be hereafter sold pursuant to this paragraph by a county or defined road district which will be eligible for participation in the County and Road District Highway Fund under the provisions of this Section shall be sold subject to the approval of the Board of County and District Road Indebtedness, as to amounts, maturities, and interest rates."

SHIVERS,  
METCALFE.

(President Pro Tempore Beck in the Chair.)

Senator Lovelady offered the following amendment to the amendment (2):

Amend the amendment by adding the following language after the word "courts" in the third line of the amendment and before the word "or": "road district."

The amendment to the amendment (2) was adopted.

(Senator Cotten in the Chair.)

Senator Kelley offered the following amendment to the amendment (2):

Amend Shivers amendment (2) by adding after the word "warrants" in the third line from the bottom of the first page, the following: "or other legal evidence of indebtedness"; and by adding after the word "bonds" in

the second line from the top of the second page the following: "warrants or other legal evidences of indebtedness."

The amendment to the amendment (2) was adopted.

The amendment (2) as amended was adopted.

Question—Shall the bill be passed to third reading?

#### Executive Session

On motion of Senator Martin and by unanimous consent, the Senate, at 11:00 o'clock a. m. went into executive session to consider nominations submitted by the Governor.

#### After Executive Session

At the conclusion of the executive session, the Secretary of the Senate informed the Journal Clerk that the following reports had been adopted by the Senate:

Committee Room,  
Austin, Texas,  
September 15, 1941.

Hon. E. Harold Beck, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be a Member of the Board of Regents of the College of Arts and Industries at Kingsville, for six year term expiring August 31, 1947:

H. E. Butt of Corpus Christi, Nueces County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 15, 1941.

Hon. E. Harold Beck, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom were referred the following nominations:

To be Members of the Board of Directors of the Brazos River Conservation and Reclamation District for six year terms expiring February 1, 1947:

Dr. M. H. Brannen of Spur, Dickens County;

William Sandefer of Franklin, Robertson County.

Have had the same under consideration, and do recommend that they be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 15, 1941.

Hon. E. Harold Beck, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be a Member of the State Board of Education to succeed Pat Hooks, resigned, term expiring January 1, 1947:

Phillip M. Stevenson of Houston, Harris County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 15, 1941.

Hon. E. Harold Beck, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom were referred the following nominations:

To be Members of the State Board of Health for six year terms expiring June 15, 1947:

Dr. W. P. Harrison of Teague, Freestone County;

Dr. F. C. Elliott of Houston, Harris County;

Dr. John A. Hart of Beaumont, Jefferson County.

Have had the same under consideration, and do recommend that they be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 10, 1941.

Hon. E. Harold Beck, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be a Member of the State Board of Pharmacy to succeed E. M. Joseph, resigned, term expiring June 14, 1947:

S. W. Patrick of Edinburg, Hidalgo County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 10, 1941.

Hon. E. Harold Beck, President of the Senate, pro tempore.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be a Member of the Rio Grande Compact Commission to succeed Julian Harrison, deceased, term expiring July 16, 1943:

J. E. Quaid of El Paso, El Paso County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 15, 1941.

Hon. E. Harold Beck, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom were referred the following nominations:

To be Commissioners of the National Conference of Commissioners of Uniform State Laws, four year terms expiring July 7, 1945:

E. E. Murphy of San Angelo, Tom Green County;

L. P. Lollar of Houston, Harris County;

W. M. Crook of Beaumont, Jefferson County;

Palmer Hutcheson of Houston, Harris County.

Have had the same under consideration, and do recommend that they be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 10, 1941.

Hon. E. Harold Beck, President of the Senate, pro tempore.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be District Judge of Special District Court for Nueces County:

Allen Wood of Corpus Christi, Nueces County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 10, 1941.

Hon. E. Harold Beck, President of the Senate, pro tempore.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be District Judge of the Thirty-seventh Judicial District, to succeed Honorable Harry L. Howard, deceased:

Raymond Edwards of San Antonio, Bexar County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 10, 1941.

Hon. E. Harold Beck, President of the Senate, pro tempore.

Sir: We, your Committee on Nominations by the Governor, to whom were referred the following nominations:

To be Members of the Game, Fish and Oyster Commission for six year terms expiring September 1, 1947:

Gene Howe of Potter County;

Gordon Stewart of Sutton County.

Have had the same under consideration, and do recommend that they be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 10, 1941.

Hon. E. Harold Beck, President of the Senate, pro tempore.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be Chairman of the Game, Fish and Oyster Commission, term expiring September 1, 1943:

Murrell Buckner of Dallas, Dallas County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 15, 1941.

Hon. E. Harold Beck, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be a Member of the Board of Directors of the Agricultural and Mechanical College of Texas to succeed the Honorable E. J. Kiest, deceased, term expiring January 10, 1945:

Neth L. Leachman of Dallas, Dallas County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 15, 1941.

Hon. E. Harold Beck, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be Banking Commissioner of Texas for a two year term expiring September 13, 1943:

John Q. McAdams of Winters, Runnels County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 10, 1941.

Hon. E. Harold Beck, President of the Senate, pro tempore.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be District Judge of the Forty-ninth Judicial District to succeed Honorable John A. Vallis, deceased:

A. P. Johnson of Carrizo Springs, Dimmit County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 10, 1941.

Hon. E. Harold Beck, President of the Senate, pro tempore.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be District Judge of the Forty-ninth Judicial District to succeed Honorable A. P. Johnson, resigned:

R. D. Wright of Laredo, Webb County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 10, 1941.

Hon. E. Harold Beck, President of the Senate, pro tempore.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be District Judge of the 111th Judicial District to succeed R. D. Wright, appointed District Judge of the Forty-ninth Judicial District:

James M. Williamson of Laredo, Webb County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 10, 1941.

Hon. E. Harold Beck, President of the Senate, pro tempore.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be District Judge of the Criminal District Court, Place 1, Harris County, to succeed Honorable Whit Boyd, deceased:

Frank Williford, Jr., of Houston, Harris County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 15, 1941.

Hon. E. Harold Beck, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom were referred the following nominations:

To be Branch Pilots for Sabine Bar, Pass and Tributaries for two year terms expiring September 3, 1943:

J. M. Cox of Jefferson County;

F. D. French of Jefferson County;

S. W. Levingston, Jr., of Jefferson County;

Arne Pedersen of Jefferson County;

G. Rodney Robinson of Jefferson County.

Have had the same under consideration and do recommend that they be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 15, 1941.

Hon. E. Harold Beck, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom were referred the following nominations:

To be Branch Pilots for Sabine Bar, Pass and Tributaries for two year terms expiring August 11, 1943:

G. H. McFarland of Jefferson County;

Christian F. Petersen of Jefferson County;

V. R. Wesbrooks of Jefferson County.

Have had the same under consideration, and do recommend that they be in all things confirmed.

MARTIN, Chairman.

Committee Room,  
Austin, Texas,  
September 15, 1941.

Hon. E. Harold Beck, President of the Senate.

Sir: We, your Committee on Nominations by the Governor, to whom was referred the following nomination:

To be Firemen's Pension Commissioner for a two year term expiring July 1, 1943:

H. B. Satterfield of Lufkin, Angelina County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

The Secretary of the Senate further informed the Journal Clerk that the nomination of Mrs. J. E. King of San Antonio, Bexar County, to be a member of the Board of Regents of the Texas College of Arts and Industries for a six-year term expiring August 31, 1947, had been rejected by the Senate.

The President Pro Tempore called the Senate to order as in legislative session at 12:10 o'clock p. m.

#### Message from the Governor

The President Pro Tempore laid before the Senate and had read the following message from the Governor:

September 17, 1941.

To the Senate of the Forty-seventh Legislature:

I ask the advice, consent and confirmation of the Senate to the following appointment:

To be a Member of the Board of Regents of Texas State Teachers Colleges to fill the unexpired term of Mrs. Oveta Culp Hobby, resigned, term expiring January 10, 1947:

Colonel J. E. Josey of Houston, Harris County.

Respectfully submitted,  
COKE R. STEVENSON,  
Governor of Texas.

The message was referred to the Committee on Nominations of the Governor.

#### House Bill 6 on Passage to Third Reading

The Senate resumed consideration of H. B. No. 6, on its passage to third reading, the bill having been read second time on today.

Question—Shall the bill be passed to third reading?

#### Recess

On motion of Senator Hill, the Senate, at 12:15 o'clock p. m., recessed to 2:30 o'clock p. m. today.

#### Afternoon Session

The Senate met at 2:30 o'clock p. m., and was called to order by the President Pro Tempore.

#### House Bill 6 on Passage to Third Reading

The Senate resumed consideration of H. B. No. 6 on its passage to third reading, the bill having been read second time today.

Senator Shivers offered the following amendment to the bill:

(3)

Amend H. B. No. 6, page 20, of the mimeographed copy by adding a new sentence after the words "incurred for right-of-way acquisition," to read as follows:

"The board shall require from each county a sworn statement of outstanding rights of way indebtedness incurred on State designated highways, and in the event a false statement is furnished the board by any county, or where any county fails or refuses to file a report, then such county shall be denied any benefits under this Section; it being the duty of the board before distributing any funds to any county under this Section where such county submits a report that it has no right-of-way indebtedness, or where said report is vague or indefinite, to audit and determine the correctness of such report."

SHIVERS,  
METCALFE,  
GRAVES,  
MOORE.

The amendment was adopted.

Senator Shivers offered the following amendment to the bill:

(4)

Amend H. B. No. 6, page 25 of the mimeographed copy, by striking out all of the first paragraph of Section (j) and substituting in lieu thereof the following:

"(j) All moneys to be deposited to the credit of the County and Road District Highway Fund, from September 1, 1941, to August 31, 1943, both inclusive, are hereby appropriated to said respective counties and defined road districts and shall be received, held, used and applied by the State Treasurer, as ex officio treasurer of said respective counties and defined road districts, for the purposes and uses more specifically set forth in this Act, including the payment of principal, interest and sinking fund requirements on all eligible obligations maturing up to and including

August 31, 1943. And each year thereafter until all of such eligible obligations are fully paid, all moneys coming into the credit of the County and Road District Highway Fund with the State Treasurer and all moneys remaining therein from the previous year shall be received and held by him as ex officio treasurer of such counties and defined road districts, and shall first be subject to the appropriation for the payment of interest, principal and sinking funds maturing from time to time on said eligible obligations, and then for the other uses specified and permitted in this Act."

SHIVERS,  
METCALFE.

(Senator Brownlee in the Chair.)  
The amendment was adopted.

Senator Shivers offered the following amendment to the bill:

(5)

Amend H. B. No. 6, page 35 of the mimeographed copy, by striking out Section 12 and substituting in lieu thereof the following:

"Section 12. This Act shall be cumulative of all other valid laws, but in the event of a conflict between any provision of this Act and any other Act, either general or special, the provisions of this Act shall prevail."

SHIVERS,  
METCALFE.

The amendment was adopted.

Senator Metcalfe offered the following amendment to the bill:

(6)

Amend H. B. No. 6, Section 1, page 1 and 2 by striking out all of said Section after line 3, page 1, down to and including line 22, page 2, and insert in lieu thereof the following:

"Section 1. It is expressly recognized and declared that all highways now or heretofore constituting a part of the system of State highways and that all roads not constituting a part of such system, which have been constructed in whole or in part from the proceeds of bonds, warrants, or other evidence of indebtedness issued by counties of the State of Texas, or by defined road districts of the State of Texas, under the laws authorizing the same, have been and are and will continue to be beneficial to the State of Texas at large, and have con-

tributed to the general welfare, settlement, and development of the entire State, and that, by reason of the foregoing, a heavy and undue burden was placed, and still rests, upon the counties and defined road district and their inhabitants, and both a legal and moral obligation rests upon the State to compensate and reimburse such counties and defined road districts which, as aforesaid, have performed functions resting upon the State, and have paid expenses which were and are properly state expenses, all for the use and benefit of the State, and to the extent provided herein that the State provide funds for the further construction of roads not designated as a part of the State Highway System.

"Having heretofore, by an Act of the Legislature (Chapter 13, Acts of the Third Called Session of the Forty-second Legislature in 1932) taken over, acquired, and purchased the interest and equities of the various counties and defined road districts in and to the highways constituting a part of the system of then designated State highways, it is further declared to be the policy of the State to take over, acquire, purchase, and retain the interest and equities of the various counties and defined road districts in and to the highways not previously taken over, acquired, and purchased and constituting on January 2, 1939, a part of the system of designated State highways, and to acquire and purchase the interest and equities of the various counties and defined road districts in and to the roads not constituting a part of the system of designated State highways as of January 2, 1939, and under the provisions of this Act to acquire such interest and equities in such roads hereafter to be constructed with money furnished by the State, and to reimburse said counties and districts therefor, and to provide for the acquisition, establishment, construction, extension and development of the system of designated State Highways of Texas, from some source of income other than the revenues derived from ad valorem taxes, it being expressly provided herein that the State is not assuming, and has not assumed, any obligation for the construction, extension, and development of any of the highways thus acquired and purchased which do not constitute a part of the system of designated State highways. And it is hereby

determined that the further provisions of this Act constitute fair, just, and equitable compensation, repayment, and reimbursement to said counties and defined districts and for their aid and assistance to the State in the construction of State highways and for the construction of said roads which are ancillary to but do not constitute a part of said system of State highways, and fully discharges the legally implied obligations of the State to compensate, repay, and reimburse the agencies of the State for expenses incurred at the instance and solicitation of the State, as well as for expenses incurred for the benefit of the State, and fully discharges the State's legally implied obligation to such counties and defined road districts to provide additional funds for the further construction of roads not designated as a part of the State Highway System."

SHIVERS,  
METCALFE.

The amendment was adopted.

Senator Metcalfe offered the following amendment to the bill:

(7)

Amend H. B. No. 6, Section 2, page 4 of the mimeographed bill, by adding after the word "files" in line 12, a new paragraph reading as follows:

"All roads which prior to Jnuary 2, 1939, had not become a part of the system of State designated highways, for convenience in this Act, are called 'lateral roads'."

SHIVERS,  
METCALFE.

The amendment was adopted.

Senator Metcalfe offered the following amendment to the bill:

(8)

Amend H. B. No. 6 by adding after Section 8 a new Section to be numbered "Section 9" and reading as follows:

"Sec. 9. It shall be unlawful for any county judge or any county commissioner, while acting in his official capacity or otherwise, to use any money out of the lateral road account for any purpose except the purposes enumerated in this Act. If any county judge or any county commissioner shall knowingly expend or use, or vote for the use or agree to expend or use any sum of money ac-

cruing to any county in this State from the lateral road account, for any purpose not authorized by this Act or shall knowingly make any false statement concerning the expenditure of any such money, he shall be deemed guilty of a felony and upon conviction shall be punished by confinement in tht State penitentiary for not less than two years or more than five years."

And renumber Sections accordingly.

SHIVERS,  
METCALFE.

The amendment was adopted.

Senator Metcalfe offered the following amendment to the bill:

(9)

Amend H. B. No. 6, page 34, of the mimeographed bill by adding after the word "made" in line 12 the following: "and (b) whenever the interest and principal necessary to retire the outstanding indebtedness owed for lateral roads shall have been fully paid as herein provided, as to, or for any county or defined road district according to the provisions of this Act, then and in that event, the title of all roads, roadbeds, bridges and culverts, in such county or defined road district pertaining to the lateral roads, constructed with the proceeds of such indebtedness, shall automatically vest in the State of Texas, but the possession thereof shall remain in such county or defined road district, and in the event of any subsequent physical change therein, such title and possession shall extend to any such change so made;"

SHIVERS,  
METCALFE.

The amendment was adopted.

#### Record of Votes

Senators Isbell and Cotten asked to be recorded as voting "nay" on the amendment.

Senator Metcalfe offered the following amendment to the bill:

(10)

Amend H. B. No. 6, page 34, by adding after the word "commission" in line 24, of the mimeographed bill the following:

"Likewise, the title to additional lateral roads when constructed shall vest in the State of Texas. Provided, however, that this Act neither imposes the obligation on, nor confers

the right in the State of Texas, to maintain and lay out any roads except those constituting a part of the designated State Highway System as hereinabove in this Act defined. The obligation to maintain or lay out all other roads, including lateral roads and additional lateral roads as defined in this Act, shall remain undisturbed in the several commissioners' courts as agents of the State."

SHIVERS,  
METCALFE.

The amendment was adopted.

Record of Vote

Senator Isbell asked to be recorded as voting "nay" on the amendment.

Senator Aikin offered the following amendment to the bill:

(11)

Amend H. B. No. 6 by inserting a new paragraph on page 10 on the mimeographed bill to read as follows:

"Regardless of the other provisions of this Act, all bonds, voted by a county or road district prior to January 1, 1941, insofar as amounts of same have been or may be issued and the proceeds actually expended in the construction of roads which are of military importance on the primary routes important to national defense as certified by the Secretary of War or the Secretary of the Navy to the United States Public Roads Administration prior to January 1, 1941, shall be eligible to participate in the distribution of moneys coming into the County and Road District Highway Fund after due provision has been made for servicing the other bonds, warrants, and other evidences of indebtedness shall not include interest in excess of three and one-half (3½%) per cent per annum; and provided further that the amount which shall be allocated to service such bonds made eligible by the provisions of this paragraph shall not exceed Three Hundred and Twenty-five Thousand (\$325,000) Dollars in any fiscal year; and such bonds shall become eligible to participate in the distribution of moneys from said fund as of the date of the award of the contract for such road construction, provided that the county or road district shall expend the proceeds of such bonds on the construction of such military roads under plans and specifications and contract provisions appropriated to the County and Road District Fund

the sum of Three Hundred and Twenty-five Thousand (\$325,000) Dollars annually out of the appropriations made in Section 6, subsection (h) to the State Highway Fund.

KELLEY,  
AIKIN.

Point of Order

Senator Cotten raised a point of order against consideration of the amendment (11), on the ground that the amendment proposes to re-insert in the bill certain matter which is substantially the same as that stricken from the bill today by the adoption of (committee) amendment (1).

The Presiding Officer (Senator Brownlee in the Chair) sustained the point of order.

Senator Metcalfe offered the following amendment to the bill:

(12)

Amend H. B. No. 6, page 33 of the mimeographed bill by adding after the word "for" in line 24 the following: "nor shall any provision hereof constitute a contract on the part of the State to make money available to any county for the construction of additional lateral roads.

SHIVERS,  
METCALFE.

The amendment was adopted.  
(Senator Moore in the Chair.)

Senator Aikin moved to reconsider the vote by which (committee) amendment (1) was adopted.

Senator Van Zandt moved to table the motion to reconsider.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—16

Beck	Mauritz
Brownlee	Metcalfe
Cotten	Ramsey
Hill	Sulak
Isbell	Van Zandt
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Nays—13

Aikin	Moffett
Chadick	Moore
Fain	Shivers
Formby	Smith
Graves	Stone
Hazlewood	Vick
Kelley	

Absent

Martin

Absent—Excused

Spears

Senator Hazlewood offered the following amendment to the bill:

(13)

Amend H. B. No. 6 by striking out all of subsection (a) of Section 6, and inserting in lieu thereof the following:

"Sec. 6. (a) All bonds, warrants or other evidences of indebtedness heretofore issued by counties or defined road districts of this State, which mature on or after January 1, 1933, in so far as amounts of same were issued for and the proceeds have been actually expended in the construction of roads, that constituted and comprised a part of the system of designated State highways on September 17, 1932, or which subsequent to such date and prior to September 1st, 1941, have been designated a part of the system of State highways or any road that heretofore has constituted a part of said system and which has been or may be changed, relocated or abandoned, whether said indebtedness is now evidenced by the obligation originally issued or by refunding obligations or both, shall be eligible to participate in the distribution of the moneys coming into said County and Road District Highway Fund, subject to the provisions of this Act; provided, that such indebtedness the proceeds of which have been expended in the construction of roads, which have been designated as a part of the State Highway System after September 17, 1932, and prior to September 1st, 1941, shall participate in said County and Road District Highway Fund as of the date of the designation of said road as a part of the State system; provided further that any participation in said fund by any county or defined road district shall be less the amount of money which it was required to accumulate in the sinking fund under the provisions of the statutes and order of the commissioners' court authorizing the issue of said eligible obligations, and the tax levy authorized at the time of issuance thereof for the time such obligations have run or may have run regardless of whether the full amount of said funds are, or may be, actually on hand and

to the credit of the sinking funds of such county or defined road district. It is provided expressly in this connection that the term 'sinking funds' shall include only those funds required under the law for the retirement of principal and interest and shall not include any excess or surplus which may have been accumulated by any county or defined road district above the legal requirements. The amount of such eligible indebtedness shall be determined as hereinafter provided. Provided further that no State funds created or provided for by the terms of this Act shall be expended in the payment of any interest maturing on the amount of sinking funds required by the terms of this Act to be accumulated by the county or defined road district at the date of eligibility of its obligations.

"In the event the State Highway Commission has, on a date prior to January 2, 1939, recorded a conditional designation and all conditions precedent to the official designation thereof have not met or performed in a manner satisfactory and acceptable to the Highway Commission, and the Highway Commission officially enters of record its acceptance and designation of such road as a part of the State Highway System for maintenance then the provisions of this Act shall apply as if the said roads had been actually designated prior to January 2, 1939.

"All bonds, warrants or other legal evidences of indebtedness outstanding as of the date of the designation hereinafter referred to, and issued by a county or defined road district prior to January 2, 1939, in so far as amounts of same were issued and the proceeds actually expended in the construction of roads that have been officially designated as a part of the State Highway System subsequent to January 2nd, 1939, shall be eligible to participate in the distribution of the moneys coming into said County and Road District Highway Fund as of the date of designation of said road as a part of the State Highway System. The amount of such bonds, warrants, or other legal evidences of indebtedness outstanding as of the date of designation of such road as a part of the State Highway System shall be eligible for participation in the same manner as provided for other bonds under this Act.

"In addition to and regardless of the other provisions of this Act, all bonds,

warrants, or other evidences of indebtedness issued without being voted by a county, road district, or defined road district prior to January 2, 1939, in so far as amounts of same were or may be issued and the proceeds actually expended in the construction of roads which are a part of the designated system of State highways, or may thereafter have been designated as part of such system, shall be eligible to participate in the distribution of the moneys coming into said County and Road District Highway Fund the same as provided for other bonds under this Act and as of the date of the designation of said road as a part of the State system; and where such bonds, warrants, or other evidences of indebtedness were voted or issued prior to the designation of the road as a State highway, the county, road district, or defined road district may issue and spend the proceeds on the construction of such road under contract and specifications to be approved by the State Highway Department, and when so expended the bonds, warrants, or other evidences of indebtedness shall be eligible to participate in the County and Road District Highway Fund the same as if the bonds, warrants, or other evidences of indebtedness were issued and expended prior to January 2, 1939.

"Provided that such bonds, warrants or other evidences of indebtedness, eligible under the provisions of this Act, and which were voted subsequent to January 1st, 1939 and prior to September 1st, 1941, shall be serviced out of the appropriation made in Section 6, Sub-section (h) to the State Highway Fund."

HAZLEWOOD,  
WINFIELD,  
FORMBY.

(President Pro Tempore Beck in the Chair.)

Senator Shivers moved to table the amendment (13).

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—18

Beck	Moore
Brownlee	Ramsey
Cotten	Shivers
Fain	Smith
Isbell	Stone
Lanning	Sulak
Lovelady	Vick
Martin	Weinert
Mauritz	York

Nays—12

Aikin	Kelley
Chadick	Lemens
Formby	Metcalfe
Graves	Moffett
Hazlewood	Van Zandt
Hill	Winfield

Absent—Excused

Spears

Senator Van Zandt offered the following amendment to the bill:

(14)

Amend H. B. No. 6 by striking out all of Section 11 thereof and renumber succeeding Sections to conform.

(Senator Chadick in the Chair.)

Senator Aikin offered the following substitute for the amendment (14):

Amend H. B. No. 6, page 35, by striking out of line 11 of the mimeographed bill, the words and figures "Sixteen Thousand Five Hundred (\$16,500) Dollars" and insert in lieu thereof the following:

"Seasonal help .....	\$ 7,500.00
Auditors not to exceed	
\$250 per month, Book-	
keepers not to exceed	
\$150 per month, Stenog-	
raphers not to exceed	
\$112.50 per month.	
Traveling Expenses.....	3,000.00
Stationery, printing and	
office supplies .....	1,000.00
	\$11,500.00"

And strike out all of the last paragraph of Section 11.

(President Pro Tempore Beck in the Chair.)

Yeas and nays were demanded, and substitute was adopted by the following vote:

Yeas—19

Aikin	Metcalfe
Brownlee	Moffett
Fain	Moore
Formby	Ramsey
Graves	Shivers
Hazlewood	Stone
Kelley	Weinert
Lemens	Winfield
Lovelady	York
Martin	

Nays—11

Beck	Hill
Chadick	Isbell
Cotten	Lanning

Mauritz  
Smith  
Sulak

Van Zandt  
Vick

Absent—Excused

Spears

The amendment (14) as substituted was then adopted.

Senator Lovelady offered the following amendment to the bill:

(15)

Amend H. B. No. 6 by adding to the end of Section 2, the following words:

“or for acquiring rights of way for State designated highways”

And by adding at the end of subdivision (a) of Section 6, the following words:

“All bonds, warrants, or other legal obligations issued by counties or defined road districts prior to January 2, 1939, the proceeds of which were actually expended in acquiring rights of way for State designated highways, shall be eligible to participate in the distribution of the moneys coming into said County and Road District Highway Fund, subject to the provisions of this Act,”

And by amending subdivision (h) of Section 6 of said bill on pages 19 and 20 of the mimeographed bill, to conform to these amendments.

LOVELADY,  
VICK.

Senator Shivers moved to table the amendment (15).

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—17

Beck	Metcalf
Brownlee	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Weinert
Kelley	Winfield
Lemens	York
Mauritz	

Nays—13

Aikin	Martin
Chadick	Moffett
Cotten	Stone
Hill	Sulak
Isbell	Van Zandt
Lanning	Vick
Lovelady	

Absent—Excused

Spears

Senator Lovelady offered the following amendment to the bill:

(16)

Amend H. B. No. 6, page 15, of the mimeographed bill, line 19, by adding after the word “application,” a new sentence reading as follows:

“Provided, however, that the commissioners’ court of any county may exercise the authority now conferred by law, to refund such maturing obligations as in the discretion of the court would be to the best interest of said county, and in such event, such court may discontinue the levying of an ad valorem tax for such maturing obligations for such year or years.”

LOVELADY,  
MOFFETT.

On motion of Senator Moore, the amendment (16) was tabled.

Senator Lovelady offered the following amendment to the bill:

(17)

Amend H. B. No. 6, by striking out all of sub-section (h) of Section 6, beginning with the last paragraph on page 19, and substituting in lieu thereof, the following:

“The moneys allocated to each county from the lateral road account shall be used by said county first for paying the principal, interest, and sinking fund requirements maturing during the fiscal year for which such money was allocated to such county on bonds, warrants, and other legal obligations issued prior to January 2, 1939, the proceeds of which were actually expended in acquiring rights of way for State designated highways, it being the intention of the Legislature to designate and set apart sufficient money to pay off and discharge said outstanding obligations incurred for right of way acquisition. Funds remaining in the Lateral Road Fund of any county after the payment of said right of way obligations shall be used by the county for paying the maturing principal, interest, and sinking fund requirements, due by the county in that calendar year on bonds, warrants, or other evidences of indebtedness which were legally issued by such county or road districts prior to January 2, 1939, the proceeds of which were actually expended in the construction or improvement of lateral county roads. Payment to be made ratably

upon the principal and interest on the maturing road bond obligations of said county for such fiscal years. Any funds remaining in the Lateral Road Fund of any county after the payment of said principal, interest, and sinking fund requirements due or maturing in that calendar year on bonds or warrants which were legally issued by such county or road district prior to January 2, 1939, the proceeds of which were actually expended in the construction or improvement of lateral county roads, may be used by the county under direction of the commissioners' court for any one or all of the following purposes: (a) for the acquisition of rights of way for county lateral roads and for the payment of legal obligations incurred therefor prior to January 2, 1939, (b) for the construction of improvement of county lateral roads, (c) for the purpose of supplementing funds appropriated by the United States Government for Works Progress Administration highway construction, Public Works Administration highway construction, and such other grants of Federal funds as may be made available to the counties of this State for county lateral road construction, and (d) for the purposes of cooperating with the State Highway Department and the Federal Government in the construction of farm to market roads. Provided that when such funds are used for the construction or improvement of county lateral roads, such construction or improvement shall be made under the supervision of a competent engineer.

"After such allocation has been made to the several counties in the State, the board shall in writing notify the chairman of the commissioners' court of each county of the amount which has been credited to that county. After receiving said notice, the commissioners' court shall, within sixty (60) days, notify the board of the manner in which it has exercised its option as to the one or more specified uses of said money permitted under this Act.

"Such money shall be applied pro rata to the payment of the debt service requirements of all issues of lateral road indebtedness of the county and all included defined road districts, in the proportion that the debt service requirements of each issue bears to the aggregate debt service requirements of all issues for

that year. When any issue of obligations which will receive aid under this Section is already listed with the Board of County and District Road Indebtedness, the board shall credit the amount applicable to said issue to the account of said issue in the State Treasury. As to all other issues of obligations, which will receive aid under this subsection (h), the commissioners' court of the specific counties affected shall have the right if so desired to utilize the facilities of the State Board of County and District Road Indebtedness in paying the amounts of principal and interest on said issues substantially in the manner that payments are effected as to such eligible obligations.

"In the event that the funds so received by the county from the lateral road account are in excess of the amount required to meet the principal and interest of its maturing road bond obligations for the next fiscal year, the commissioners' court, in that event, may elect to use such excess money allocated to it from the lateral road account, and in such event, it shall notify, in writing, the said board of its election to make use of said money. Whereupon, said board shall remit said balance to be utilized for such purpose, to the county treasurer of such county, said money to be deposited by the county treasurer in accordance with the law, and the same shall be utilized by the county, acting through the commissioners' court, for the construction of lateral roads. Each county may call upon the State Highway Commission to furnish adequate technical and engineering supervision in making surveys, preparing plans, and specifications, preparing project proposals and supervising actual construction; the actual cost of such aid in supervision shall be paid by the county as a charge against its project.

"In order that maximum benefits may be obtained in the expenditures of the State fund made available to the counties under this Act for the construction of county lateral roads, and so that the counties may have the benefit of widespread competition among contractors in bidding on such projects, such counties may, in their discretion, authorize the State Highway Commission to receive bids in the same manner as is now provided

by law for the award of contracts on State highways.

"When any road which shall have been constructed by any county wholly from the county lateral road account shall be designated by the State Highway Commission as a part of the system of designated State highways the designation of such road by the State Highway Commission shall constitute a full and complete discharge of any and all obligations of the State, moral, legal, or implied, for the payment of such highway.

"In the event the commissioners' court elects to cooperate with the Highway Department in the building of, or in the construction of, farm-to-market roads, it shall by proper resolution entered upon its minutes, authorize the State Treasurer to pay such funds to be so used, over to the State Highway Department for use on certain designated projects. Regardless of how the funds allocated to the counties from the lateral road account are used, the county judge of each county shall file with the board on or before October 1st, of each year, a verified report showing the manner in which the said funds have been expended, the nature and location of the roads constructed, and such other information as the board may from time to time require."

The amendment was adopted.

Senator Shivers offered the following amendment to the bill:

(18)

Amend H. B. No. 6, page 24, line 7, by adding after the word "Board" the following:

"but in no event at a greater rate of interest than that provided in the original issue."

SHIVERS.  
METCALFE.

The amendment was adopted.

Senator Shivers offered the following amendment to the bill:

(19)

Amend the caption to conform to the body of the bill as amended.

The amendment was adopted.

The bill (as amended) then was passed to third reading.

### House Bill 6 on Third Reading

Senator Shivers moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 6 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Absent—Excused

Spears

The President Pro Tempore then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—30

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Absent—Excused

Spears

### Resolutions Signed

The President Pro Tempore signed in the presence of the Senate, after their captions had been read, the following enrolled resolutions:

H. C. R. No. 6, Authorizing the State Highway Department to lend

certain equipment to the City of Mount Pleasant.

H. C. R. No. 8, Relating to the requirements of the Social Security Board regarding employees of the State Department of Public Welfare.

**House Concurrent Resolution 11**

Senator Shivers called for the reading and consideration at this time of H. C. R. No. 11, received from the House on yesterday.

The President Pro Tempore then laid before the Senate and had read:

H. C. R. No. 11, Providing for sine die adjournment on Friday, September 19, 1941, at 6:00 o'clock p. m.

The resolution was adopted by the following vote.

Yeas—30

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Absent—Excused

Spears

**Adjournment**

On motion of Senator Cotten, the Senate, at 5:20 o'clock p. m., adjourned until 11:00 o'clock a. m. tomorrow.

**SEVENTH DAY**

(Thursday, September 18, 1941)

The Senate met at 11:00 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tempore Beck.

The roll was called, and the following Senators were present:

Aikin	Formby
Beck	Graves
Brownlee	Hazlewood
Chadick	Hill
Cotten	Isbell
Fain	Kelley

Lanning	Shivers
Lemens	Smith
Lovelady	Stone
Martin	Sulak
Mauritz	Van Zandt
Metcalfe	Vick
Moffett	Weinert
Moore	Winfield
Ramsey	York

A quorum was announced present. The invocation was offered by the Chaplain.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**Leave of Absence Granted**

Senator Spears was granted leave of absence for today on account of important business, on motion of Senator Graves.

**Message from the House**

A Clerk from the House was recognized by the President Pro Tempore to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
September 18, 1941.

Hon. E. Harold Beck, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 34, A bill to be entitled "An Act granting permission to W. F. Masterson, and wife, Dora Masterson, to file and prosecute suit against the State of Texas and the State Highway Commission to ascertain and fix the amount, if any due said W. F. Masterson and wife, Dora Masterson for damages and compensation sustained by them by reason of the State of Texas and The State Highway Department bringing suit compelling them to take up and remove the concrete sidewalk, pillars and awning and underground tanks and pipe lines and gasoline pumps from the 10 foot sidewalk abutting their property, lots 17 and 18 in block 7 in the GCC & S E RR Co. Addition to the Town of Cresson, Texas, and the compensation, if any, to which said W. F. Masterson and wife Dora Masterson may be entitled by reason of the State of Texas and the State Highway Department compelling them to remove their said improvements from